

FILED

OCT 27 2006

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIE MCGHEE,)
Plaintiff,) 06CV5856
vs.) JUDGE PALLMEYER
VALENTINE & KEBARTAS, INC.,) MAG. JUDGE ASHMAN
Defendant.)

COMPLAINT

NOW COMES the Plaintiff, WILLIE MCGHEE, by and through his attorneys, LARRY P. SMITH & ASSOCIATES, LTD., complaining against the Defendant, VALENTINE & KEBARTAS, INC., and alleging as follows:

PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereafter the "FDCPA"), 15 U.S.C. § 1692 et seq.

JURISDICTION AND VENUE

2. Jurisdiction arises under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.

PARTIES

3. Plaintiff, Willie McGhee ("Plaintiff"), is an individual who was at all relevant times residing in the City of Waukegan, State of Illinois.

4. At all relevant times herein, Defendant, Valentine & Kebartas, Inc., ("Defendant") acted as a debt collector within the meaning of 15 U.S.C. § 1692a(6) in that it held itself out to be a company collecting a debt allegedly owed to Cingular.

5. Defendant is a corporation that has its principal place of business and its offices located in the State of Massachusetts.

ALLEGATIONS
COUNT I

VIOLATIONS OF THE FDCPA v. VALENTINE & KEBARTAS, INC.

6. In September of 2006, Plaintiff began receiving telephone calls from a representative of Defendant attempting to collect a debt allegedly owed to Cingular.

7. In said conversations, Plaintiff attempted to set up a payment plan to pay off the balance of the alleged debt however Defendant refused to accept anything less than the entire balance of the debt.

8. Defendant placed repeated telephone calls to Plaintiff as often as four times a day and around 8:00 p.m. in the evening in efforts to obtain payment from the Plaintiff.

9. Plaintiff requested Defendant not contact him in the evening as he works a late shift and sleeps during the early evening hours, and therefore advised Defendant and put Defendant on notice as to a time that was inconvenient to the consumer.

10. In said conversations, Defendant has used profane language while speaking to Plaintiff and threatened to file suit against Plaintiff if he failed to make payment on the debt.

11. On or about October 17, 2006, Plaintiff advised Defendant that he was represented by an attorney. On October 18, 2006, Defendant called Plaintiff directly in further attempt to collect the debt.

12. In its attempts to collect the aforementioned debt, the Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 in one or more of the following ways:

- a. Contacted the consumer at an unusual time or place or a time or place known or which should be known to be inconvenient to the consumer in violation of 15 U.S.C. § 1692c(a)(1);
- b. Used obscene or profane language or language the natural consequence of which is to abuse the hearer or reader in violation of 15 U.S.C. § 1692d(2); and
- c. Caused a telephone to ring or engaged any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number in violation of 15 U.S.C. § 1692d(5).
- d. Contacted a consumer known to be represented by an attorney in violation of 15 U.S.C. § 1692c(a)(2).

13. As a result of Defendant's violations as aforesaid, Plaintiff suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, WILLIE MCGHEE, by and through his attorneys, respectfully prays for judgment as follows:

- a. All actual compensatory damages suffered;
- b. Statutory damages of \$1,000.00 for Plaintiff;
- c. Plaintiff's attorneys' fees and costs;
- d. Any other relief deemed appropriate by this Honorable Court.

*****PLAINTIFF REQUESTS A TRIAL BY JURY *****

Respectfully Submitted,
WILLIE MCGHEE

By:



Larry P. Smith

Attorney for Plaintiff

LARRY P. SMITH & ASSOCIATES, LTD.

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